

REMARKS

Reconsideration of this application is respectfully requested.

Claims 1, 3, and 4 have been slightly amended to correct the omission of "means" in reference to the "liner means" as found in claim 1. No other corrections or changes have been made. However, independent claim 27 is newly presented and newly presented claims 28, 29, and 30 are dependent from claim 27. Claim 27 is essentially claim 1 with the limitations of claim 5 included. The Examiner has previously indicated the allowability of the subject matter of claim 5, and accordingly claim 27 is deemed allowable. Likewise, claims 28, 29, and 30 are deemed allowable.

The newly cited art has been carefully considered, and is respectfully submitted that independent claim 1 defines over the art of record and is accordingly allowable. The allowability of 3, 5 - 12, and 23 - 26 is duly noted. However, it is respectfully submitted that independent claim 1 is also allowable, rendering all the claims allowable.

Claim 1 has been rejected on the Whitfield '421 patent. Whitfield comprises a very small plastic catch basin. Note the 3" diameter input hole. Using that as a scale, the apparatus is probably no larger than about nine inches by about twelve inches. Moreover, the apparatus is clearly defined as plastic. Such a structure is a far cry from the present apparatus.

The Whitfield structure includes four grooved corner pieces, a lipped bottom and four walls designed to extend into the respective grooves and within the bottom lip. Then a plastic top element, also with a lip, is placed over the walls to help hold the walls in place. The apparatus does not resemble the present invention in any way!

Claim 1 has also been rejected over the Jordan et al '252 patent. The Jordan et al '252 patent is for an upflow filter for a home sewage treatment system. The structure comprises a reinforced cast concrete container, with an open top but integral bottom and four walls. While the container is apparently cast as an integral unit, different cast concrete covers are illustrated. Several different interior wall plans are shown. The apparatus does not in any way resemble the present invention!

Both the Whitfield and the Jordan et al patents are cited as the basis for §102(b) rejections. Under a §102(b) rejection, the cited patent(s) must include all of the limitations included in the rejected claim, and the limitations must be arranged as in the claim under rejection. In re Bond, 910 F.2d 831, 15 USPQ2d 1566 (Fed. Cir. 1990); C.R. Bard, Inc. v. M3v Systems, Inc., 157 F.3d 1340, 48 USPQ2d 1225 Fed. Cir. 1993); Helifix Ltd. v. Blok-Lok, Ltd., 208 F.3d 1339, 54 USPQ2d 1299 (Fed. Cir. 2000); Brown v. 3M, 265 F.3d 1349, 60 USPQ2d 1375 (Fed. Cir. 2001).

In other words, the anticipating structures must resemble the claimed structure. Does Whitfield resemble the claimed structure? Emphatically no! Does the Jordan et al structure resemble the claimed structure? Again most emphatically no!

A careful review of claim 1 in light of the two cited patents shows clearly that the limitations of the claim 1 are not found in the two cited patents. Again - Whitfield shows four corner posts. Can they be considered as "perimeter support means" as defined in the specification in light of the plain meaning of "perimeter?" No! Then the Examiner considers the walls and floor to be liner means. Again - not the same structure. The Whitfield structure is a very small plastic drain, essentially a toy as compared with the present invention. Different structures for different purposes.

The Jordan et al structure is even farther afield, if that is possible, than the Whitfield structure. A reinforced cast concrete container is not the same structure as perimeter support means and a liner secured to the perimeter support means. The reason is obvious - if that word may be used - Jordan et al is concerned with a home sewage system, not with a water retention system for a shopping center parking lot. The issues are different and accordingly the structures are different, vastly different.

It is respectfully submitted that the cited art could not even be used for a § 103 rejection. Essentially, Whitfield teaches that a drain system may be made out of ten pieces of plastic, a floor plate, four corner posts, four wall elements, and a top element. The elements are designed to be put together like a toy, with grooves in the four corner posts to receive the walls, and the bottom and top elements have lips to help hold the walls in place. That structure is nothing like the structure defined in claim 1; nothing that

that even remotely suggests the structure of claim 1 by any logical interpretation of the various terms involved.


Jordan et al teaches that a home sewage system may be made of reinforced cast concrete for the walls and floor and a separate cast concrete cover for the container. Within the container are filtering chambers. None of the elements resembles the present apparatus in any way.

For the reasons given above, it is respectfully submitted that independent claim 1 defines over the art of record and is accordingly allowable. It follows that claims 2 - 26, dependent from claim 1, are also allowable, with claims 3, 5 - 12, and 23 - 26 separately allowable, as indicated by the Examiner. An indication of such allowability is respectfully urged.

A check in the amount of \$36.00 for the four newly presented claims is enclosed.

Respectfully submitted,

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